

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
EASTERN DIVISION**

**FRANKLIN L. CHANCE  
ADC #132313**

**PLAINTIFF**

**v.**

**No. 2:12-cv-228-DPM-JTK**

**DANNY BURL, Warden, East Arkansas Regional  
Unit, ADC; CURTIS L. ROLFE, III; LATHAN  
ESTER; and TAMEKA CODY, Disciplinary Server,  
East Arkansas Regional Unit, ADC**

**DEFENDANTS**

**ORDER**

The Court has considered Magistrate Judge Kearney's proposed findings and recommendations, *No. 41*. Chance has not objected. After reviewing the proposal for clear factual error and for legal error, FED. R. CIV. P. 72(b)(3) (1983 addition to advisory committee notes), the Court adopts it. Defendants' motion for summary judgment, *No. 33*, is granted. Chance's retaliation claims against Burl, Ester, and Cody are dismissed without prejudice for failure to exhaust, and his retaliation claim against Rolfe is barred by res judicata. Chance's remaining due process and equal protection claims, as well as his claim for damages against Defendants in their official capacities, are dismissed with prejudice.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.  
United States District Judge

15 January 2014